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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/519,224

03/06/2000

John C. Yundt-Pacheco

HEMA.69528

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11/12/2003

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EXAMINER

SUN, XIUQIN

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 11/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/519,224

Applicant(s)

YUNDT-PACHECO, JOHN C.

Examiner

Xiuqin Sun

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09/08/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 56-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 56-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. Upon further consideration, the allowable subject matter of claims 17, 37 and 44 as indicated in the last Office action mailed on 06/19/2003 has been withdrawn and replaced by the following office action. Any inconvenience to the Applicant(s) is regretted.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 56 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer et al. (U.S. Pat. No. 5646046) in view of Lin (U.S. Pat. No. 5532941) and further in view of Hopkins et al. (U.S. Pat. No. 6507765).

Fischer et al. teach a method for modifying data from a group of laboratory instruments (col. 26, lines 56-67; col. 27, lines 1-11), comprising the steps of: obtaining data indicative of testing specimen outputs of a laboratory instrument (col. 6, lines 7-9; col. 7, lines 3-32; col. 26, lines 57-67 and col. 27, lines 1-11); and normalizing the data according to a reference (col. 7, lines 3-32; col. 19, lines 59-67; col. 20, lines 61-67; col.

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21, lines 1-67; col. 22, lines 1-42; col. 26, lines 57-67 and col. 27, lines 1-12). The teaching of Fischer et al. includes: obtaining control specimen data and generating a normalization curve according to the control specimen data (col. 20, lines 61-67; col. 21, lines 1-67; and col. 22, lines 1-42. The teaching of Fischer et al. further includes: the normalization curve is generated for a single laboratory instrument (col. 5, 57-64; col. 21, lines 32-43; col. 26, lines 66-67), and can further be applied to each instrument in a group of laboratory instruments (col. 26, lines 60-67). The teaching of Fischer et al. further includes outputting the normalized data (col. 3, lines 58-59; and col. 21, lines 36-41).

Fischer et al. do not mention explicitly: obtaining data indicative of testing specimen outputs of a group of laboratory instruments; normalizing the data according to a control group, wherein the control group comprises data indicative of a comparison group of laboratory instruments; the outputting step includes displaying the normalized data on a network; modifying data from more than one group of laboratory instruments.

Lin teaches the steps and means of obtaining data indicative of outputs of a group of lab instruments; and normalizing the data according to a control group, wherein the control group comprises data indicative of a comparison group of laboratory instruments (Figs. 5 and 8A-8C; abstract; col. 2, lines 43-48, lines 53-56; col. 3, lines 6-11, lines 40-49, lines 60-63; col. 6, lines 5-28; col. 7, lines 57-67; col. 8, lines 1-67; col. 9, lines 1-34; col. 10, lines 21-67; col. 11, lines 1-12; col. 21, lines 66-67 and col. 22, lines 1-15); the outputting step includes sending the normalized data to the group of

laboratory instruments (Fig. 5; col. 5, lines 26-29; col. 23, lines 16-27; and col. 25, lines 13-20).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the Lin group data collection, normalization technique and the computer system in the Fischer method in order to reduce the instrument-to-instrument variability in the data obtained from a group of lab instruments to allow comparative data analysis electronically without confusion or loss of confidence (Lin, abstract).

Hopkins et al. disclose a computerized control and information system for a manufacturing system, comprising a plurality of processing machines which generate signals indicative of the parameters of the processing machines' operation (col. 3, lines 11-17). Hopkins et al. teach the steps and means of providing a real-time summary and detailed analysis of received parameter signals, and displaying the summary data on a network including results of statistical analysis performed across said a plurality of processing machines (col. 8, lines 36-67; col. 9, lines 1-15 and lines 29-45).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the Hopkins et al. in the combination of Fischer and Lin in order to provide a network-based distributed computerized control and information system for a group of processing machines or laboratory instruments (Hopkins et al., col. 3, lines 11-17 and col. 9, lines 29-45).

Furthermore, in view of the teaching of Fischer et al. (col. 26, lines 56-67; col. 27, lines 1-11; col. 20, lines 20-26; col. 20, lines 61-67; col. 21, lines 1-67; and col. 22, lines

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1-42), Lin (Figs. 5 and 8A-8C; abstract; col. 2, lines 43-48, lines 53-56; col. 3, lines 6-11, lines 40-49, lines 60-63; col. 6, lines 5-28; col. 7, lines 57-67; col. 8, lines 1-67; col. 9, lines 1-34; col. 10, lines 21-67; col. 11, lines 1-12; col. 21, lines 66-67 and col. 22, lines 1-15) and Hopkins (col. 3, lines 11-17; col. 8, lines 36-67; col. 9, lines 1-15 and lines 29-45), one having ordinary skill in the art would be able to apply the same technique to carry out the method for modifying instrument results to other groups of laboratory instruments. The mere application of a known method to more than one group of laboratory instruments by those skilled in the art would have been obvious.

4. Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lin in view of Fischer et al.

Lin teaches a system for producing quality control evaluation information for groups of laboratory instruments (see Abstract and Fig.1), comprising: one or more groups of lab instruments (Fig. 1 and col. 5, lines 13-26); and a quality control evaluation server in communication with the groups of lab instruments (Fig. 1), wherein the groups of lab instruments comprise a laboratory information system coupled to individual lab instrument and in communication with the quality control evaluation server and wherein the groups of lab instruments send data indicative of outputs to the quality control evaluation system, and wherein the quality control evaluation system outputs quality control evaluation information to the groups of lab instruments (col. 5, lines 13-55).

Lin further teaches implicitly that: said quality control evaluation performed by said quality control evaluation server includes normalizing said groups of lab

instruments (Figs. 5 and 8A-8C; abstract; col. 2, lines 43-58, lines 53-56; col. 3, lines 6-11, lines 40-49, lines 60-63; col. 6, lines 5-28; col. 7, lines 57-67; col. 8, lines 1-67; col. 9, lines 1-34; col. 10, lines 21-67; col. 11, lines 1-12; col. 21, lines 66-67 and col. 22, lines 1-15), and said quality control evaluation system outputs normalized outputs to the groups of lab instruments (Fig. 5; col. 5, lines 26-29; col. 23, lines 16-27; and col. 25, lines 13-20).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to explicitly include the teaching of Lin normalization in the Lin quality control evaluation in order to more effectively reduce the instrument-to-instrument variability in data obtained from a group of lab instruments to allow comparative data analysis, as suggested by Fischer et al. (Fischer et al., col. 7, lines 15-32 and col. 19, lines 59-67).

### ***Contact Information***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xiuqin Sun whose telephone number is (703)305-3467. The examiner can normally be reached on 7:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (703)308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

XS

October 16, 2003



John Barlow  
Supervisory Patent Examiner  
Technology Center 2800